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09/584,808	05/31/2000	Bruce A. Beadle	AUS000123US1	2279

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EXAMINER
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BOUTAH, ALINA A

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 12/18/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/584,808

Applicant(s)

BEADLE ET AL.

Examiner

Alina N Boutah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 10-20, and 22-28 is/are rejected.
- 7) ☒ Claim(s) 9, 21 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 23 October 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

This action is in response to Applicant's amendment received October 20, 2003. Claims 1-29 are pending in the present application.

### ***Drawings***

Applicant has amended the drawings as well as the specification to overcome all of the objections. The objections are now withdrawn.

### ***Specification***

Application has amended the specification to overcome all of the objections. The objections are now withdrawn.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 10-20, and 22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,774,660 issued to Brendel et al. in view of USPN 6,397,387 issued to Rosin et al.

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(Amended) Regarding claim 1, Brendel et al. teach a method for providing a client with a connection to a network, said method comprising the steps of:

selecting a connection type (col. 2, lines 18-22); and

in response to a receipt of a connection request, dynamically connecting said client to a selected server of said network based on a determination of an effective route for completing said connection request, given said selected connection type (abstract; figure 7; col. 6, lines 20-58); col. 11, lines 4-50).

However, Brendel et al. fail to explicitly teach selecting at the client a connection type from among a plurality of connection types including a plurality of independent servers, a plurality of connection media for connection to at least one of said plurality of independent servers, and a server medium combination. Rosin et al. teach selecting a connection type from a plurality of connection types (figure 12; abstract; col. 3, lines 21-25; col. 15, lines 41-63). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Rosin into the teaching of Brendel in order to determine the most efficient delivery of data through all available bandwidth connections (col. 15, lines 43-48).

(Amended) Regarding claim 2, Brendel et al. teach the method of Claim 1, wherein said selecting step includes the step of providing a graphical user interface with selectable options for each of said plurality of connection types, in response to a user request to configure said client to connect via one or more of said plurality of connection types (col. 2, lines 18-22).

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(Amended) Regarding claim 3, Brendel et al. teach the method of Claim 2, wherein said selecting step includes the steps of:

evaluating historical data about connection types associated with said client (col. 2, lines 29-35); and

selecting an effective server connection based on a connection history of said client and present connection conditions (col. 2, lines 29-35).

(Amended) Regarding claim 4, Brendel et al. teach the method of Claim 3, wherein said evaluating step includes the step of accessing said connection history from a table of server connection parameters, which are utilized a to determine said effective connection route (col. 2, lines 18-35; col. 3, lines 7-30).

Regarding claim 5, Brendel et al. teach the method of Claim 4, wherein said dynamically connecting step includes the step of evaluating said server connection parameters for each of a plurality of servers to determine said effective connection route relative to all other possible routes within said connection, type (abstract; figure 7; col. 6, lines 20-58; col. 11, lines 4-50).

Regarding claim 6, Brendel et al. teach the method of Claim 5, wherein said dynamically connecting step further includes the step of encoding a routing information about said effective connection route in a connection protocol of said client (col. 3, lines 7-30).

Regarding claim 7, Brendel et al. teach the method of Claim 6, wherein said encoding step includes the step of including a call-back mechanism in said connection protocol, wherein relevant connection information, including one or more of said connection parameters, is returned to said client for updating said table (col. 2, lines 10-52).

Regarding claim 8, Brendel et al. fail to teach teach the method of Claim 7, wherein said client is equipped with multiple connection media and said dynamically connecting step includes the step of selecting one of said multiple connection media to complete said connection request. Rosin et al. teach a client being equipped with multiple connection media and a step of dynamically communicating the client with a server by selecting one of said multiple connection media (figure 12; abstract; col. 3, lines 21-25; col. 15, lines 41-63). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Rosin into the teaching of Brendel in order to determine the most efficient delivery of data through all available bandwidth connections (col. 15, lines 43-48).

Regarding claim 10, Brendel et al. teach a computer program product for utilization within a client for connecting to servers of a network, said program product comprising: a computer readable medium; and program code on said computer readable medium, which provides:

an interface for receiving user input and connection requests (col. 2, lines 18-22); and  
a connection utility for dynamically connecting said client to one of said servers in response to a connection request, wherein said one of said servers is selected based on a

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determination of an effective route for completing said connection request (abstract; figure 7; col. 6, lines 20-58; col. 11, lines 4-50).

Regarding claim 11, Brendel et al. teach the computer program product of claim 10, wherein program code for said interface further comprises program code for a connection selection interface for receiving user selection of a desired connection type, wherein said desired connection types including a default server connection, a changeable default server connection with a suggestion function for providing an optimal server connection during a later connection, and an effective server connection based on a connection history of said client (col. 2, lines 18-35).

Regarding claim 12, Brendel et al. teach the computer program product of claim 11, wherein said program code for said connection utility includes:

program code for managing a connectivity table utilized to record a plurality of connection parameters for each of said servers (col. 2, lines 18-35; col. 3, lines 7-30);

program code for determining said effective route based on said connection parameters (figure 7; col. 6, lines 20-58); col. 11, lines 4-50);

program code for encoding a connection protocol with said effective route (col. 3, lines 7-30); and

program code for appending a call-back to said connection protocol, whereby connection parameters from a current connection is returned to update said connectivity table (col. 2, lines 10-52).

Claims 13–20 have similar limitations as those in claims 1-8, respectively, therefore are rejected under the same rationale.

Claims 22-25 have similar limitations as those in claims 1-4, respectively, therefore are rejected under the same rationale.

Claims 26-28 have similar limitations as those in claims 6-8, respectively, therefore are rejected under the same rationale.

#### ***Allowable Subject Matter***

Claims 9, 21 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 29 has been allowed in the previous Office Action.

Claims 9 and 21 have been amended to include the limitations cited in claim 29, therefore are allowed.

#### ***Response to Arguments***

Applicant's arguments filed October 20, 2003 have been fully considered but they are not persuasive.

Applicant argues that neither Brendel nor Rosin teaches features such as a client system GUI that enables the user to select one of a plurality of connection types (media and server, etc.) to complete a connection to a network, and enables a dynamic selection of a most efficient/effective route (server, connection types, etc.) based on stored historical data.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., GUI that enables the user to select a connection type) is not recited in the rejected independent claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As to the step of enabling a dynamic selection of a most efficient/effective route based on stored historical data, this feature is taught in (col. 2, lines 29-35) of Brendel.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina N Boutah whose telephone number is (703) 305-5104. The examiner can normally be reached on Monday-Thursday (9:00 am-7:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

*ANB*

ANB

  
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